

RIGHT-OF-WAY VACATION POLICIES AND PROCEDURES

I. POLICIES:

A. Adjoining property owner may petition the City to vacate any public right-of-way for a street or alley. By State law, the general rule is that when a City vacates a right-of-way, it is divided between the adjoining property owners. This division rule does not apply when a right-of-way is on the edge of a subdivision.

B. Generally, rights-of-way are owned "in fee simple" by the City, and when vacated, can be acquired by the adjoining property owners. However, there are some cases wherein the City does not own a right-of-way "in fee simple", but merely has the right to use the property. In these cases, the City vacates its right to use the property and ownership reverts to original owner of the property, not to the adjoining property owners.

C. As a matter of policy, any vacation of a right-of-way must not result in a dead-end situation which lacks sufficient room for a vehicle to turn around or in public property which is isolated and not connected to other public right-of-way.

D. All expenses involved in the vacation process shall be borne by the petitioner and receiving property owners.

E. It is the policy of the City Council not to seek to sell vacated land to adjoining property owners in the vacation of an alley or the vacation of a right-of-way twenty feet or less in width. That is, Council generally does not require that the receiving property owners purchase such rights-of-way.

F. It is the policy of City Council that whenever a right-of-way over twenty feet is vacated and the amount of vacated land going to a single adjoining property owner, when added to land already owned by the property owner, it is sufficient to create a new legal building site not heretofore available to that adjoining property owner, then the City will sell the land to that adjoining property owner for an amount equal to one-half of the assessed value of a comparable building site; if the vacation of a right-of-way over twenty feet does not create for the adjoining property owner a new building site, then the City will not seek to sell the vacated land to that adjoining property owner.

II. PROCEDURES

Anyone wishing to vacate a right-of-way is encouraged to discuss the policies and procedures with representatives of the Department of Development or City Attorney prior to initiating the process.

A. Filing of Petition. The attached petition must be filed with the Department of Development. All adjoining property owners must sign the petition. There must be a \$25 deposit for each property owner. The petitioner must agree to meet all expenses involved in the vacation process. Contact: Department of Development.

B. Advertisement. Notice of the request to petition City Council for the vacation of a right-of-way must be published as a legal ad in the Hopewell News at least twice, with at least six (6) days elapsing between the first and second publication. The notice shall specify the time and place of hearing by City Council, at which persons affected may appear and present their views. Contact: Department of Development.

C. Following the City Council hearing, Council's policy is to refer the request to the Planning Commission as "viewers". The Planning Commission will receive a staff report on the request, and make its recommendation to Council. Contact: Department of Development.

E. The property owners shall have 180 days to submit to the City Attorney for approval all deeds of vacation. When an individual deed is approved, the respective \$25 deposit shall be refunded. Contact: Department of Development.

F. At the end of the 180 day period, or earlier, the City Attorney shall report to Council:

(1) If all deeds have been received and approved, Council then may adopt on second and final reading the vacating ordinance. If adopted, the deeds will be returned to the respective property owners, for filing with the Clerk of the Circuit Court. No property is transferred until the deeds have been filed. Contact: Department of Development.

(2) If one or more deed is not received within the specified 180 days time limit, Council will be requested to defeat the vacating ordinance on second and final reading. If the ordinance is defeated, all deeds shall be returned to the appropriate parties and the petition terminated.

(3) For property owners who have not had a deed submitted and approved, the respective \$25 deposit shall be forfeited to the City. Contact: City Attorney.

For additional assistance, please contact the Department of Development or the City Attorney.

Policies and procedures adopted in accordance with action of Council on March 25, 1997.

APPLICATION FOR STREET/ALLEY VACATION

I (We) _____ of _____
(Mailing Address)

petition the City of Hopewell to vacate the undeveloped right-of-way situated at:

There has _____ has not _____ been previously a petition to vacate this right-of-way.

Attached is a drawing of the right-of-way to be vacated.

There are _____ property owners adjoining this right-of-way. Attached is a signature list of the adjoining property owners and a \$25 deposit per property owner.

I (We) agree to pay for two public notice advertisements in the Hopewell News as well as all other costs incurred by me associated with this application, regardless of Council's final decision regarding this petition.

I (We) have received Council's Policies and Procedures concerning right-of-way vacations.

(Signature of Petitioner)

(Telephone Number)

(Signature of Petitioner)

(Date)